

**BATTLE CREEK CITY PLANNING COMMISSION  
MEETING MINUTES  
Wednesday, October 26, 2011**

**1. Call to Order:**

Chairman Preston Hicks, called the meeting to order at 4:00 p.m.

**2. Attendance:**

**Members Present:**

Steve Barker	Jan Frantz	William Morris
Susan Baldwin (Mayor)	John Godfrey	Chip Spranger
Dan Buscher	Preston Hicks	John Stetler

**Staff Excused:** None

**Staff Present:** Christine Hilton, Planning Supervisor  
Jill Steele, Deputy City Attorney  
Glenn Perian, Senior Planner  
Leona Parrish, Administrative Assistant, Planning Dept.

**3. Additions or Deletions to the Agenda:** None

**4. Approval of Minutes:** Meeting Minutes of September 28, 2011.

**MOTION WAS MADE BY COMMISSIONER GODFREY, SUPPORTED BY  
COMMISSIONER BARKER, TO APPROVE THE PLANNING COMMISSION  
MEETING MINUTES FOR SEPTEMBER 28, 2011 AS PRESENTED.**

**VOTE ON MOTION: ALL IN FAVOR; NONE OPPOSED; MOTION CARRIED.**

**5. Correspondence:** None

**6. Public Hearings and Deliberation /Recommendations:**

- A. Special Use Permit #S-03-11:** Petition from Emily Andrus Home Asso., Ms. Mary Frisby, Administrator Region 3B Area Agency on Aging, 200 E. Michigan Ave., Ste 201, Battle Creek, MI 49017, requesting a Special Use Permit to allow an Large Group Adult Foster Care Home in an "R-3A Multiple Family Residential District" as permitted under the Planning and Zoning Code, Chapter 1290, Sec. 1290.01 b) (7), for property located at 652 Capital Avenue N.E.

*Commissioner Hicks Opened the Public Hearing:* Ms. Christine Hilton stated the Area Agency on Aging (AAA) are seeking a SUP for the operation of an Adult Foster Care Facility and the Emily Andrus Home Association will continue to own the property and allow (AAA) to operate the facility. Noted that Foster Care Facilities are regulated by the Michigan Department of Human Services and the license has specific regulations that the provider must adhere to, and are regulated, monitored, and enforced by the State of Michigan. Stated historically this facility provided only on-site housing for senior women with no staff or part-time care and was typically a boarding house where they were linked to

services that were primarily offered off-site, and this, combined with the number of residents, did not qualify the use under State guidelines in existence at that time. The petitioner has submitted an application to the State of Michigan for a Large Group Home license, which would allow for at least thirteen, but not more than twenty adult clients with a targeted population that includes senior citizens and disabled individuals in accordance with State guidelines.

Ms. Mary Frisbie, Administrator Region 3B Area Agency on Aging, 200 E. Michigan Ave., Ste 201, Battle Creek, MI came forward to speak; stated they came together with the W.K. Kellogg Foundation to use this facility for an Adult Foster Care for 20 persons to provide occupational therapy and physical therapy care, in addition to having nursing staff on site. Noted it would be for the elderly only for State License level 1, 2, & 3, type of care and that most of their people would use a walker or wheelchairs.

Ms. Marilyn Troxel, owner of 36 Evans Street came forward and stated she was in support along with other neighbors present. Stated the use of the building in this way is beneficial to the community.

*With no others wishing to speak, Commissioner Hicks closed the public hearing.*

**MOTION BY COMMISSIONER MORRIS, SUPPORTED BY COMMISSIONER GODFREY TO APPROVE THE SPECIAL USE PERMIT TO ALLOW AN LARGE GROUP ADULT FOSTER CARE HOME FOR PROPERTY LOCATED AT 652 CAPITAL AVENUE, N.E., (PARCEL # 4990-00-040-0), AS THE REQUEST MEETS THE BASIS FOR DETERMINATION AND BASED ON THE FINDINGS AND CONDITIONS AS OUTLINED IN THE STAFF REPORT.**

**Discussion:**

Commissioner Godfrey asked the property owner who would be maintaining the property. Ms. Jean Booher, representative of owner stated Area Agency on Aging Region 3B would be maintaining the property.

Commissioner Frantz asked what the difference was in levels 1, 2, & 3. Ms. Frisbie stated it is the nursing level needed; such as cleaning of trachs, catheters, etc.; the difference can be licensed or non-licensed as if non licensed cannot touch hands and provide assistance to persons. Ms. Frisbie noted that Adult and Assisted Living are the same.

Commissioner Godfrey asked regarding the level of patients; would there be a need for fencing of the property. Ms. Frisbie stated they have community health for that level of patients and this facility would be the same clientele as in the past for disabled, etc., which would help persons from having to go into a nursing home.

Mr. Dan Buscher stated it had not been licensed before, but will need to be now. Ms. Frisbie stated yes, it was basically only a boarding home before. Stated they applied for a Michigan license and have to meet those requirements because of the assistance they provide.

Commissioner Hicks stated thank you to Ms. Frisbie for getting the support of the neighbors.

Mr. Jim Gardner, neighbor asked if he could speak. Commissioner Hicks allowed even though the Public Hearing had been closed. Mr. Gardner asked who would be the administrator, what the age group would be and if it would be staffed 24 hours; stated he had concerns with the care and possible destruction of the property.

Ms. Frisbie stated legally the age of 18 and up is considered an adult, but they would only have persons age mid 50's years and older, they would be the administrator and maintain the license, Lifespan will be providing the care and they would have the work of cleaning and maintenance staff contracted out.

Commissioner Godfrey suggested they have an open house and invite the neighborhood to come, as it might be helpful for them to have a better understanding of the facility.

Ms. Jill Steele asked if the motion included the conditions and findings outlined in the staff report. Commissioner Morris stated, yes.

**A VOTE WAS TAKEN: EIGHT IN FAVOR; ONE ABSTAINED (SPRANGER); NONE OPPOSED; MOTION APPROVED.**

- B. Special Use Permit #S-05-11:** Petition from Ms. Pam VanOosten, 723 Greenridge Rd., Battle Creek, MI 49015, requesting a Special Use Permit to allow for a licensed Child Daycare for 7-12 Children in an "R-1B Single Family Residential District" for property located at 723 Greenridge Road.

Commissioner Hicks Opened the Public Hearing: Ms. Christine Hilton stated the application meets the requirements, is complete and consistent with the general standards listed in 1290.04 as outlined. Said it would be harmonious and appropriate in appearance with the existing properties and would not change the character of the neighborhood; would not be hazardous or disturbing and would provide a valuable service to the community. Noted there would not be any city expenses associated with the maintenance and improvements made to the property and that the request meets the general standards listed in the ordinance; therefore recommend approval based on the findings noted in the staff report.

Ms. Pam VanOosten, 723 Greenridge Rd., (petitioner) came forward to speak; stated she has five children and is licensed to care for six. Noted she would like to care for 7 to 12 children with and assistant present and would be licensed through the State of Michigan. Said her hours of operation would be from 6:30 am – 5:30 pm and the children would only play in the rear yard with supervision at all times.

Commissioner Buscher asked how long she had operated a daycare and what where the requirements. Ms. VanOosten stated 1 ½ years with no complaints; said the requirements were zoning, licensed through the State of Michigan.

Commissioner Buscher asked if site inspections were done. Ms. VanOosten stated yes; and would have another done in 3 months.

Commissioner Buscher asked if the hired assistant would need to meet any requirements. Ms. VanOosten stated yes, they would need to have CPR training, be State approved and need to know the rules.

Commissioner Godfrey noted when the petitioner came before the NPC on Sept. 28<sup>th</sup>; he had not abstained from voting.

*With no others wishing to speak, Commissioner Hicks closed the public hearing.*

**MOTION BY COMMISSIONER BARKER, SUPPORTED BY COMMISSIONER BUSCHER TO APPROVE THE SPECIAL USE PERMIT TO ALLOW A GROUP DAY CARE HOME FOR PROPERTY LOCATED AT 723 GREENRIDGE ROAD, TO INCLUDE THE TWO PROJECT SPECIFIC CONDITIONS AND TWO ADMINISTRATIVE CONDITIONS NOTED IN THE STAFF REPORT AS THE REQUEST MEETS THE BASIS FOR DETERMINATION AND BASED ON THE FINDINGS AS OUTLINED IN THE STAFF REPORT.**

**Discussion:** None

**A VOTE WAS TAKEN: ALL IN FAVOR; NONE OPPOSED; MOTION APPROVED.**

**7. Old Business:**

- A. By-law Review:** Commissioner John Stetler stated he had not been at the two previous meetings when the bylaws had been reviewed; noted the staff had done a good job with the revisions.

Commissioner Barker noted that on Page 3, Article V, Section 3 regarding "Regular Meeting Date"; it is noted to be held in room #302 of City Hall and should read room # 301.

**MOTION BY COMMISSIONER GODFREY, SUPPORTED BY COMMISSIONER BARKER TO APPROVE THE PLANNING COMMISSION BYLAW REVISIONS AS SUBMITTED WITH THE CORRECTION NOTED FOR PAGE 3, ARTICLE V, SECTION 3; MEETING LOCATION TO BE IN ROOM #301 INSTEAD OF #302.**

**A VOTE WAS TAKEN: ALL IN FAVOR; NONE OPPOSED; MOTION APPROVED.**

- B. Requested Ordinance Amendment to allow Residential in all Zoning Districts:** Commissioner John Stetler asked Ms. Christine Hilton to read her findings in the document provided to the commission. Ms. Hilton stated the perceived problem is the number of nonconforming residential properties in the City which are unable to receive financing due to the city ordinance prohibiting reconstruction if more than 50% of the insured value is destroyed. Ms. Hilton noted the current options that a person has now is that they may apply to the Zoning Board of Appeals for a use variance to allow for the continued use of

that property as residential, in conformance with the zoning ordinance, and the owner may also apply for non-FHA financing. Stated in regards to allowing mixed uses on properties, a property owner currently can apply for a contract rezoning of a property that would be specific to their intended use, or they can apply for PUD to allow mixed uses.

Ms. Hilton stated she could check with other communities and see how they handle legal non-conforming properties.

Commissioner Hicks asked Ms. Hilton what her stance was regarding this issue. Ms. Hilton stated it is not something they should spend a lot of time, as without a current land use survey it is not known how many properties are actually impacted. However, once conducted, if the land survey shows there are significant number of properties, then perhaps further review of additional options might be warranted. Nevertheless, staff continues to believe the current laws provide sufficient resolution to any impacted properties. She will research into typical methods of implementing the legal nonconforming standards.

Commissioner Frantz asked if this was an action item. Commissioner Hicks stated it was just a discussion item.

Commissioner Stetler stated he had spoken with Ms. Hilton, which had helped him to better understand. Stated he wants Battle Creek to be more open to residential; made reference to a grant that was to be used to demolish 300 homes and that they need to make friendlier housing development. Noted that the population in Calhoun County is large and the majority live in Battle Creek. Stated he sits on another board for the city and they have never turned petitioners down, noted persons can get financing if it can be allowed in downtown, why not in the Lakeview district or elsewhere; he would like to see mixed land uses in Battle Creek and the he was not sure what Contract Zoning is.

Commissioner Morris stated he has heard of a few properties that are non-conforming and have had difficulty financing; and he supports Commissioner Stetler.

Commissioner Barker asked how do they go about meeting Mr. Stetler's issues. Ms. Hilton stated anything by ordinance needs to meet the Master Plan; stated they can do an overlay district, but would not recommend allowing residential in all zoning districts and that they need to look at where and how it is to be approached.

Commissioner Barker thanked Commissioner Stetler for bringing to them the issue and asked if staff can prepare a document for them to review as to how they may proceed.

Commissioner Hicks stated to allow residential use all over the city is a large thing for staff to do; they need to see where the zones are in comparison to the Master Plan.

Commissioner Stetler said he understands they cannot allow residential everywhere, but need to address issues regarding non-conforming properties.

Ms. Christine Hilton stated she agrees they need to look at non-conforming properties, but also need to look at existing land use and know that they are getting into.

Commissioner Godfrey asked if staff could do a poll of other communities to see how they are addressed. Stated insurance has been an issue in the past for non-conforming properties.

Commissioner Frantz stated they need to do more research such as; foot traffic, police issues, etc.

Commissioner Hicks noted they need clarify and be reminded the role of this body.

Commissioner Godfrey stated the use variance is something that is being phased out and if they were to come up with different zoning for the city, it would incorporate other ideas and eliminate the use of a use variance before it is phased out.

Mayor Baldwin asked if staff would explain Contract Re-Zoning.

Ms. Hilton stated it is relatively new and project specific to that individual property and is allowed by State statute if requested.

Mayor Baldwin asked if Contract Re-zoning would be better than issuing Special Use Permit, as when the contract is done it would not be allowed for that property any longer. Ms. Hilton stated they can amend our Special Use ordinance to allow for mixed use.

Mayor Baldwin said they want to allow quality business not just anyone; can we do that now or do we need to make a change. Ms. Hilton stated we do not allow for mixed uses by Special Use Permit now, they would need to amend the ordinance. Mayor asked if this is what other communities are doing. Ms Hilton said usually it is done broader base with an overlay district or Form Based Code not property specific which is what a SUP would be and she would not be opposed to researching.

Mayor Baldwin said she would want to take a look at an overlay for business borders; asked if Ms. Hilton had any idea how many they may have for the city. Ms. Hilton stated not until the existing land use survey has been done.

Commissioner Stetler asked if the Assessor's Office would know the property uses. Ms. Hilton stated their records would not provide enough information for the true representation of each property, for example anything over four residential units is classified as commercial property.

Commissioner Buscher noted that with Commissioner Stetler's years of experience that he was not fully aware of the system; how the information gets out to the public, as a lot of it is basic education without having to do severe legislation or ordinance changes. Ms. Hilton stated a public relations plan could be put in place; need to see what the consequences might be if it were amended and look at the existing land use map and survey other communities on what they are doing, also look at a balance for legal non-conforming properties. Noted the Planning Department does spend a lot of time with the public when they come into the office to explain their different options.

Commissioner Hicks asked Ms. Hilton how we should move ahead. Ms. Hilton stated her professional opinion is we need to do the existing land use survey to see what we have and

make sure there is no un-intended consequences with any ordinance that is being changed. Stated the short term would be to add to the Special Uses for anyone coming through Planning Commission, and would be a fairly easy amendment to that ordinance and would still allow over-site by Planning Commission and City Commission for approval.

Mayor Baldwin suggested a possible joint workshop with the City Commission and allow the Planning staff to take the time to gather the information and not rush into anything.

Commissioner Stetler stated he appreciated the discussion and it is what he had wanted brought forward and is sure they will follow through on it; thanked the commission.

8. **New Business:** None

9. **Comments by the Public:** None

10. **Comments by the Staff and Commission Members:**

Commissioner Spranger noted that the striping for roads had caused traffic problems on Capital Ave., S.W., and enhancing our city and the grown in the downtown; noted the recent striping on Territorial and Columbia which has caused some problems. Stated the motorized report was six years old and might need to be reviewed. Ms. Hilton stated that report plan was done by the Department of Public Works and is not a Planning project; it was a legislation that recently went through and was to take into consideration bike lanes, pedestrian and motor vehicles consistent with complete streets.

Mayor Baldwin noted that it had been brought to her attention with the problem of Columbia and Capital and stated some of the other Commissioners had questions regarding the Engineering Departments "Non-Motorized Transportation".

Commissioner Stetler noted he had received his meeting packet yesterday in the mail and asked if they can be received via email as soon as they are available. Ms. Hilton stated she apologized for the lateness of receiving the reports, that they were sent a week in advance and noted they are available the Thursday or Friday prior to the monthly meetings and in the future when emailing the meeting packet agendas, staff reports and minutes to the City Commissioners; staff will also be sending them to the Planning Commissioners. Ms Hilton noted that if any Planning Commissioners wish to not be receiving their copy through the mail to please let us know.

Commissioner Spranger asked what the action if any were they taking regarding the Non-Motorized Transportation Plan and if it was strictly the Engineering Departments recommendations. Mayor Baldwin stated they could begin the discussion at one of the Commission Workshops and ask for updates.

Commissioner Morris stated Federal Grants were used for the bike lanes and he was not sure if they now can be moved and do not believe it is at their level; he agrees with the Mayor that a workshop would be a good time to talk about some changes and need some type of blessing from the Federal Government for the grant money they provided to do the improvements on the roads.

Mayor Baldwin noted that she knows it did not specifically state what roads they have to be on, so they can look at reallocating them because of the dollars that were received.

Commissioner Morris noted that Commissioner Sprangers suggestions are good and he thinks holding a workshop and talk about the needs to keep the traffic flowing. Commissioner Spranger stated, yes a workshop would be good to discuss traffic bike-lanes; housing and commercial development.

Commissioner Hicks asked the Deputy City Attorney when staff makes recommendations and they are read into the motions is this reinforcement to the petitioner or is this the only place this language is presented to the petitioner. Ms. Jill Steele stated the conditions; when it is stated you want what is within the staff report it is then made a part of the record and is on the permit that is granted.

Ms. Christine Hilton stated sometimes there may be a request where the Planning Commission wants to require for example “the back yard be fenced” so those would be project specific conditions the planning staff would recommend or the Planning Commission can add recommendations to that; stated the conditions in the reports are noted for the record and added to what is approved and are reflected in the minutes and staff reports, etc.

Commissioner Frantz stated often it is forgotten to talk about the findings and they should also be noted for the record.

11. **Adjournment:** The meeting adjourned at 5:14 P.M.

Respectfully Submitted,

Christine M. Hilton, AICP  
Executive Secretary, Planning Commission